IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

Tr.P(Crl.).No. 28 of 2007()

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CC.380/2005 of J.M.F.C., KAYAMKULAM
CC.922/2006 of J.M.F.C., KAYAMKULAM

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PETITIONER:

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SURESH, 31 YEARS,
S/O. DIVAKARAN,
MANNADISSERI MEKKATHIL,
ILLIPPAKULAM MURI,
VALLIKUNNAM VILLAGE,
KAYAMKULAM.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS:

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1. THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. RAGHAVAN, S/O. KRISHNAN,
VALLIYIL THEKKETHIL,
ILLIPPAKULAM MURI,
VALLIKUNNAM VILLAGE,
KAYAMKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**Tr.P.(Cri.)NO. 28 OF 2007**

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**Dated this the 14th day of February, 2007**

**ORDER**

This application for transfer has been filed by the petitioner who is the 1st accused in two separate prosecutions pending before the same court in respect of which this Court had earlier passed a common order dated 14/11/2006 in Crl.M.C.Nos.2036/05 and 3127/06. There was a direction for expeditious disposal – within a period of six months. After the matter went before the learned Magistrate, the learned Magistrate evidently wanted the parties to explore the possibility of a settlement. Parties were referred to the Lok Adalath also. The matter has not been settled. It is, in these circumstances, that the petitioner has come to this Court with a prayer for transfer.

2. What is the ground for transfer? It is said that the learned Magistrate is insisting that "the matter must be settled failing which the petitioner will be convicted with the maximum sentence". This is the general and sweeping statements made in the petition and in the affidavit.

3. Admittedly, the dispute is one between the relatives and the learned Magistrate has committed no error in suggesting that the parties must explore the possibility of a settlement. Even admittedly, the parties were referred to the Adalath for settlement. The complainant/victim/the 2nd respondent is not amenable for a settlement and he is allegedly demanding exorbitant amount as price for settlement.

4. These circumstances, according to me, do not constitute a valid reason for a transfer. The mere sweeping statement that the learned Magistrate is compelling the petitioner to settle the matter "failing which he will be convicted with maximum sentence" is, according to me, too unsatisfactory a reason to direct transfer. A time bound direction has been issued and reading between the lines it is not impossible to suspect that the attempt is only to further protract the proceedings.

5. This petition is, in these circumstances, dismissed.

**Sd/-**

**(R. BASANT, JUDGE)**

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**//true copy// P.S. To Judge**